



Commission for
Communications Regulation

Electronic Communications:- Proposed Measures in relation to Text Relay Services

Consultation

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Additional Information

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All responses to this consultation should be clearly marked: -“Reference: Submission re ComReg 15/21” as indicated above, and sent by post, facsimile, e-mail or on-line at www.comreg.ie (current consultations), to arrive on or before 5pm, 9th April 2015 to:

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1 Introduction

- 1 The Commission for Communications Regulation (“ComReg”) issued a Decision in respect of measures to ensure equivalence in access to, and choice for, disabled end-users of telecommunications services in May 2014¹, which placed obligations on all electronic communications service providers in relation to the provision of services and information for disabled end-users. ComReg also issued a separate Decision², stipulating measures for disabled end-users to be fulfilled by the universal service provider only. Both Decisions have highlighted a number of measures which require further consultation, one of which is a Text Relay Service (“TRS”).

1.1 Text Relay Service

- 2 As illustrated by Figure 1, TRS “allows for the translation of voice messages into text and the sending of that text to the phone of the end-user or of the operator and vice versa. End-users who receive text via relay must have access to a Minicom³. The TRS is a national relay service, for Minicom users and those who communicate with them, is available 24 hours a day. End-users can reach the operator via specific Freephone numbers”⁴.
- 3 TRS is currently available from Eircom provided under its universal service obligation, and is available only to fixed line telephone users who use a Minicom device.
- 4 TRS is a mechanism which is free of charge to end-users using it to make or receive a telephone call.

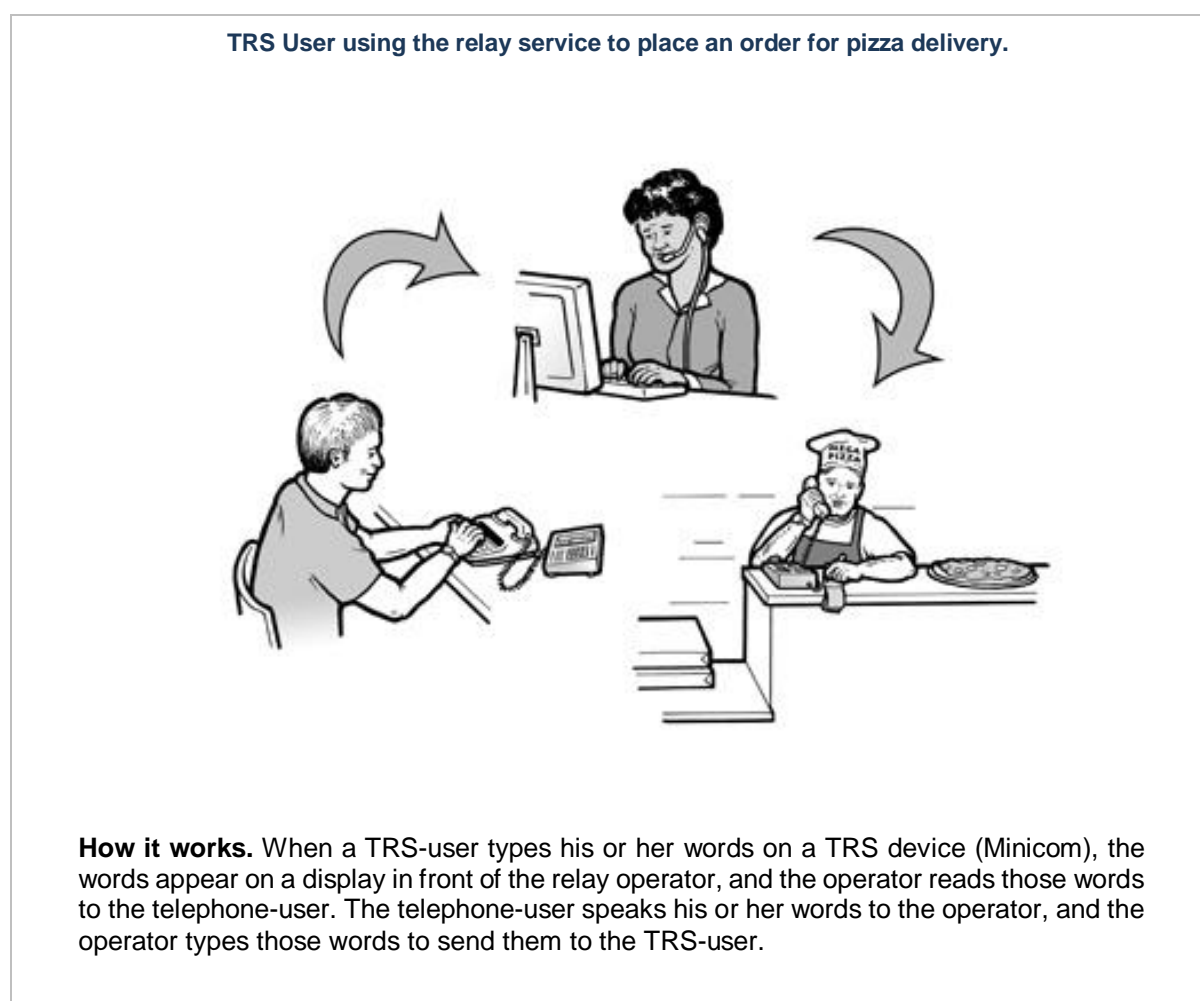
¹ Decision 04/14, contained in ComReg document 14/52 “Electronic Communications: Measures to ensure equivalence in access and choice for disabled end-users – Response to Consultation and Decision”.

² Decision 09/14, contained in ComReg document 14/70 “Universal Service Obligation: Measures for Disabled End-Users – Response to Consultation and Decision”.

³ A Minicom device is a (fixed line) text telephone for users with hearing impairments. The text phone can be connected directly to the telephone line or it can be connected acoustically using a telephone handset. It has a full QWERTY keyboard.

⁴ Adapted from <http://www.eircom.net/group/disabilityservices/>

Figure 1 Text Relay Illustrated⁵



- 5 ComReg is proposing in this consultation that all Undertakings providing a Publicly Available Telephone Service (“PATS”) offer to disabled end-users a TRS that provides facilities for the receipt and translation of voice messages into text and the conveyance of that text to a recipient, and vice versa.
- 6 ComReg is also proposing that the facility be technology neutral, i.e. that it is available for use via fixed and mobile services, using the current Minicom devices as well as other devices such as mobile handsets, PC, tablets, laptops, consoles etc.

⁵ Adapted from Americans with Disabilities Act (ADA) <http://www.ada.gov/reachingout/lesson23.htm>

1.2 TRS Rebate Scheme

- 7 ComReg is of the preliminary view that when the proposed TRS is implemented and can be used in a multi-platform environment, that the basis for the current rebate system (the time taken to make a text telephone call is longer than that needed to make an ordinary call) may no longer be relevant.
- 8 ComReg is aware that disabled end-users currently using the existing TRS may avail of a rebate scheme because of the increased time that may be taken to complete a TRS call. ComReg is of the preliminary view that those that currently avail of the service offered by Eircom should continue to avail of the rebate scheme. As it is intended that the proposed new TRS will be technology neutral, which should allow Undertakings to offer telecommunication bundles and packages which should not disadvantage a TRS end-user, as such the original basis for the rebate scheme will not be as relevant for new users of the proposed TRS and therefore ComReg is proposing that the rebate scheme would not apply to these users.

1.3 Synopsis

- 9 ComReg is now seeking the views of stakeholders on the proposals set out in this document which would require all undertakings providing PATS, to provide disabled end-users with access to a TRS of a minimum standard.
- 10 ComReg is not setting out detailed technical specifications for a TRS but is consulting on a number of factors that the TRS must at a minimum meet, including that it is a technology neutral service which is available for use by customers using their landline, mobile, personal computer and other devices.
- 11 In addition, ComReg is of the preliminary view that all customers should be provided with a quality service and therefore proposes a number of Quality of Service Obligations that the TRS should meet.
- 12 ComReg is of the preliminary view that, although the current number of users of the existing TRS is relatively low, the service continues to be valuable to these users and in light of the number of potential users requiring to use such a service (made more widely available), ComReg is of the preliminary view that the service should be updated and extended.

- 13 Regulation 17 of the Universal Service Regulations⁶ (“the Regulations”) provides that ComReg may, where appropriate, specify requirements to be complied with by Undertakings in order to ensure equivalence in access and choice for disabled end-users and that ComReg shall encourage the availability of terminal equipment offering the necessary services and functions for disabled end-users.
- 14 ComReg’s preliminary views as set out within this document are based largely on matters raised and discussed at the Forum on Electronic Communications Services for People with Disabilities (“the Forum”) which consists of nominated representatives from the Disability Stakeholders Group (“DSG”) and nominated representatives from Undertakings. ComReg has also taken into account a report published by the Body of European Regulators for Electronic Communications (“BEREC”) in February 2011 entitled “*Electronic communications services: Ensuring equivalence in access and choice for disabled end-users*” (“the BEREC Report”),⁷ which provides assistance to national regulatory authorities (“NRAs”) in assessing and achieving equivalence of access and choice for disabled end-users.
- 15 ComReg has noted the issues raised in respect of the current TRS and is currently reviewing these issues.
- 16 ComReg is interested to hear the views of interested parties in relation to the proposals in this consultation document. ComReg will review and take into account all responses it receives and will issue a final decision thereafter.

⁶ SI No 337 of 2011 - European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011

⁷ BoR (10) 47 Rev1 - http://berec.europa.eu/doc/berec/bor_10_47Rev1.pdf

2 Executive Summary

2.1 Introduction

17 ComReg's objective is to ensure that equivalence in access to electronic communications services and choice of undertakings and services is attained for disabled end-users.

18 The barriers that disabled end-users experience when accessing electronic communications services and the importance of access to telephone services are recognised in the USD⁸. In this respect, ComReg is now proposing that all undertakings providing a PATS should be obliged to offer a TRS to the minimum requirements proposed in this consultation.

19 ComReg is proposing that the obligation to provide a TRS should be placed on undertakings providing PATS, as the purpose of the proposed obligation is to, in as far as possible, provide a service which is functionally equivalent, to that of making and receiving a voice-telephone call.

20 This consultation document sets out proposed measures which are considered by ComReg to be necessary and appropriate in order to attain equivalence in access and choice for disabled end-users in respect of TRS.

2.2 Consultation Detail

21 ComReg is of the view that the proposed measures outlined in this consultation document are proportionate and justified, given the need to ensure equivalence in access and choice for disabled end-users. Submissions are invited in respect of the proposed measures and the draft Regulatory Impact Assessment ("RIA").

22 This consultation document is structured as follows:

- Section 3 Background
- Section 4 Proposed Measures
 - TRS
 - TRS Rebate
 - Timing of implementation and review of measures

⁸ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC)

Electronic Communications: - Proposed Measures in relation to Text Relay Services

- Section 5 Regulatory Impact Assessment ("RIA")
- Section 6 Submitting Comments

3 Background

- 23 To date the Forum has worked in a collaborative manner to progress and implement measures on a voluntary basis. The functions of the Forum and key achievements to date are listed in Annex 2 of this paper
- 24 Partly as a result of the work of the Forum, ComReg consulted on relevant matters and issued D04/14⁹. In that publication, ComReg stated that it would work with the Forum to identify any further measures, as relevant which may be appropriate to implement in order to satisfy the requirements of Regulation 17 of the Universal Service Regulations. The dissatisfaction of relevant stakeholders with the current TRS was highlighted.
- 25 During ComReg's consultation on measures to ensure equal access and choice for disabled end-users, which led to D04/14, it was apparent that users of the TRS considered that the service should be modernised and should also be made available to subscribers of mobile electronic communications services. This view was also expressed by various Disability Group Representatives participating in the Forum. At Forum No.22¹⁰ meeting, following a presentation by BT UK (at Forum No.21¹¹) of the Next Generation Text Relay service mandated by Ofcom¹², and during the subsequent discussion at the meeting, ComReg indicated that it would initiate a consultation process in respect of the TRS.
- 26 In July 2014, ComReg published decision D09/14¹³ designating the Universal Service Provider ("USP") with the following universal service obligations for the period of 12 months from the date of publication:

For users who are hearing and/or speech impaired

- A text Relay Service providing facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any operator, and vice versa.
- A rebate scheme whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured.

⁹ ComReg Decision D04/14 Elect http://www.comreg.ie/_fileupload/publications/ComReg1452.pdf

¹⁰ The meeting took place on 03 September 2014.

¹¹ The meeting took place on 24 June 2014.

¹² Ofcom Statement 17 Oct 2012: Review of Relay Services Decision on the introduction of Next Generation Text Relay

¹³ ComReg Decision D09/14 Universal Service Obligation – Measures for disabled end-users http://www.comreg.ie/_fileupload/publications/ComReg1470.pdf

- 27 This consultation now seeks views of stakeholders on the following measures:
- The requirement of all Undertakings providing PATS, not just the Universal Service Provider (which is currently the case), to provide access to a TRS.
 - The provision of TRS by all Undertakings providing PATS to an agreed set of Performance Obligations.
 - The continuation of the rebate scheme only for existing TRS Minicom users availing of the scheme.
- 28 ComReg is of the preliminary view that this is necessary to continue to protect the interests of disabled end-users. The proposed measures within this consultation are focused, in particular, on those end-users who are hearing and/or speech impaired.
- 29 ComReg sought and obtained the consent of the Minister of the Department of Communications, Energy and Natural Resources, for the obligations imposed on Eircom as a USP by Decision D09/14 in respect to TRS and the rebate scheme from 1 July 2014 to 30 June 2015. It may be necessary to extend Eircom's current obligation taking into account the implementation timeframe of the proposed new measures, if decided, and in this context, ComReg's preliminary view is that Eircom should continue to provide a TRS service until the proposed new TRS, if decided, is implemented. This is reflected in section 7 of the draft Decision Instrument, Annex 4 of this document. ComReg will seek the consent of the Minister of Department of Communications, Energy and Natural Resources, as relevant.

3.1 Inputs that have contributed to the proposed measures

Current TRS

- 30 As result of ComReg Decision 09/14¹⁴ and in accordance with Regulation 7 of the Universal Service Regulations, Eircom was designated as the USP for the purpose of complying with a number of obligations and as provided for by Regulation 6 of those Regulations, the USP shall therefore provide the specific services including TRS.

¹⁴ Contained in ComReg document 14/70 "Universal Service Obligation: Measures for Disabled End-Users – Response to Consultation and Decision".

- 31 A TRS provides facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any Undertaking, and vice versa. The TRS is currently made available only to fixed line end-users who are hearing and/or speech impaired via a fixed line using a Minicom terminal. The TRS system for Minicom users and those who communicate with the end-users is available 24 hours a day.
- 32 Eircom recently advised ComReg that between January 2014 to December 2014, 189 voice to text calls and 1,262 text to voice calls were made using national text relay (Minicom) service¹⁵.
- 33 Also, in a response to ComReg consultation 13/58¹⁶ difficulties with the current TRS system were set out by users: *Jones and O'Brien* submitted a transcript of a Text Relay conversation which illustrated the frustrations that end-users may have with the service¹⁷.
- 34 Separate to this consultation, ComReg is addressing the issues raised by users of the current service.

Statistical Information

- 35 The Health Service Executive has stated that in 2011 “Permanent acquired hearing loss of a significant degree affects some 8% of the adult population”.¹⁸
- 36 The statistical evidence suggests that potentially between 100,000 and 120,000 people could avail of a TRS service. This figure is derived from an estimate of the combination of results of the national Census of 2011¹⁹ and the National Disability Survey of 2006. According to the results of the National Disability Survey (“NDS”) 2006²⁰;
 - 16,800 people have a moderate level of difficulty speaking
 - 12,200 people have a lot of difficulty speaking
 - 6,400 people can't speak at all

¹⁵ ComReg Information Notice Universal Service Obligations - Measures for disabled end-users; Take up and usage statistics. Document No. 15/22

¹⁶ ComReg 13/58 http://www.comreg.ie/_fileupload/publications/ComReg1358.pdf

¹⁷ See ComReg 14/52s – Electronic Communications: Measures to Ensure Equivalence in Access and Choice for disabled End users (Submissions document)

¹⁸ National Audiology Review 2011:
<http://www.hse.ie/eng/services/Publications/corporate/AudiologyReview.pdf>

¹⁹ Census 2011 Page 52,
<http://www.cso.ie/en/media/csoie/census/documents/census2011profile8/Profile,8,Tables,and,Appendices.pdf>

²⁰ National Disability Survey 2006 Page 86
<http://www.cso.ie/en/media/csoie/releasespublications/documents/otherreleases/nationaldisability/Detailed%20Tables.pdf>

This suggests a total of 35,400 people experiencing hearing and/or speech difficulties according to the NDS 2006 survey.

Census 2011 shows that 92,000 people experience deafness or a serious hearing impairment.

Stakeholders

- 37 In its submission²¹ to ComReg's consultation (13/58), DeafHear noted the following in relation to the current TRS:

“In the early years, the number of calls made to the TRS was in the hundreds per week, but this has dwindled to an average of less than twenty per week. This is due to a combination of factors, including the introduction of other devices (such as mobile phones and smart phones); the introduction of SMS/texting; the prohibitive cost of buying and maintaining a Minicom phone; the dissatisfaction with the TRS itself in terms of quality and reliability; and most important of all, the failure to adapt the TRS to allow people to access the service with newer technologies. In effect, the TRS has been neglected and left to fall into disuse. By contrasting the Irish situation with that of the UK, we can see that the outcome is increased social exclusion and isolation of Deaf and Hard of Hearing people in Ireland.”

- 38 Also in their submission to ComReg's consultation (13/58), Jones and O'Brien provided the following comment:

“Minicom technology itself is from the 1970s/1980s. Most minicomms in use nowadays are from the 1990s. We are talking about electronic equipment. Computer equipment. Most people consider computer equipment that is five years old to be pretty old, verging on obsolete. Yet people using minicomms are using, for the most part, minicomms from the 1990s. This means we are using antique technology. Deaf and hard of hearing people have moved on with the times and use smart phones, laptops and other internet-based technologies. Relay service providers in other countries have recognised this fact and moved on with the times to match their customer base.”

²¹ ComReg 14/25s http://www.comreg.ie/_fileupload/publications/ComReg1452s.pdf

Benchmarking Evidence

- 39 The BEREC Report²² set out a proposed approach to achieve equivalent access and choice in addition to factors for consideration for equivalent access and choice and services and features available for disabled end-users. The approach detailed by the Report and ComReg's application of that approach to this consultation are set out in Annex 3 of this consultation document.
- 40 ComReg has contacted other regulatory authorities with regard to if, and how, Text Relay is required of Undertakings as a measure for disabled end-users in EU Member States.
- 41 A number of the Member States advised that they had not yet commenced any process which may seek to mandate all Undertakings to provide access to a TRS.
- 42 Sweden's Post and Telecom Authority (PTS) procured a TRS service via public procurement²³. PTS procured a service which is available on a multi-platform basis, and enables communication between text and speech and vice versa.
- 43 In the UK the Office of Communications ("OFCOM") has mandated²⁴ access to an approved Next Generation Text Relay (NGTR) service via its General Conditions, pursuant to Article 23a of the Universal Service Directive. PATS providers in the UK, both fixed and mobile, must provide access to a relay service with NGTR functionality for calls to and from end-users who may be hearing and speech-impaired, with special tariffs to compensate disabled end-users for the additional time taken by these call. In OFCOM's view, NGTR represents a significant technological improvement to the previous TRS, as it may be accessed from mainstream equipment such as PCs, tablets and smartphones as well as from text phones, and it provides users with the ability to increase conversation speeds, interrupt conversations, and have two-way speech.
- 44 In its "Review of Relay Services" consultation,²⁵ (28 July 2007), which led to the introduction of NGTR that, OFCOM noted;

²² Annex 3 of this document.

²³ PTS: Requirements Specification for a Text Telephony Service Reg 12 -7557 28 Sept 2012
http://www.pts.se/upload/Documents/SE/07_4384_Kravspecifikation_Formedlingstjanst_for_texttelefon.pdf

²⁴ OFCOM Decision on the introduction of Next Generation Text Relay 17 October 2012
<http://stakeholders.ofcom.org.uk/binaries/consultations/relay-services-review-12/statement/statement.pdf>

²⁵ OFCOM Review of Relay Service 28th July 2011
http://stakeholders.ofcom.org.uk/binaries/consultations/review-relay-services/summary/relay_services.pdf

“The service currently handles around 33,000 calls each week using relay assistants as well as direct text-to-text communication between text terminals (which would not normally require a relay assistant)”

45 OFCOM further noted;

“there are currently (2011) approximately 7.4m minutes of calls made annually with the existing approved TR service. We think that some current TR users would be able to make faster calls if NGTR was introduced. We do not have accurate estimates of how many users this would be, although for the purpose of illustration, we assume that one third of TR calls are made by people with some residual hearing and speech, one third are made by profoundly deaf non-BSL users, and the remaining third are made by BSL (British Sign Language) users.”

46 From ComReg’s perspective this is significant as an increase in usage of the TRS service once the NGTR was introduced was anticipated, in spite of already high usage rate.

47 OFCOM moved from a service funded and provided by BT under the Universal Service (Condition 4) to a service required by all communications providers under General (Condition 5).

48 Both PTS and OFCOM adopted similarly end-user focused principles in setting out the requirements for a TRS service that are summarised as follows:

- The service should be technology neutral, available across the fixed, mobile and internet platforms;
- All PATS Undertakings are obliged to provide access to TRS service;
- The TRS solution is provided to an agreed service standard, measured against the minimum requirements of the Quality of Service Obligations.

3.2 Definition of Key Terminology

49 **Disability:** For the purposes of this consultation, “ **disability**”, in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment²⁶;

²⁶This definition is provided for in the [Disability Act 2005](#), section 2(1)

50 “**End-User**” means a user not providing public communications networks or publicly available electronic communications services in accordance with the definition at section 2(1) of the Framework Regulations.

51 **Equivalence**: ‘Equivalence’, for the purposes of this consultation, is defined in accordance with recital 12 of Directive 2009/36/EC which provides:

“Equivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent, such that disabled end-users benefit from the same usability of services as other end-users, but by different means.”

52 “**Functional equivalence**” is also discussed in the BEREC Report²⁷ which provides:

“BEREC proposes that “equivalent” in this context means that equivalent access to and choice of electronic communications services should be achieved for end-users with disabilities, albeit that this might be achieved in different ways for end-users with disabilities in comparison with other end-users.

BEREC additionally notes recital 12 the 2009 Directive which states that: “Equivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent, such that disabled end-users benefit from the same usability of services as other end-users, but by different means”.

The 2009 USD refers to services for disabled consumers that are equivalent to those enjoyed by other end-users. The objective is functional equivalence, but in practice there are reasons why 100% equivalence is not always possible. For example, there may be technical constraints that prevent a particular service from being possible, or the cost of achieving 100% equivalence could be disproportionate to the benefits arising from providing it.”²⁸

53 “**Subscriber**” means any natural person or legal entity who or which is party to a contract with a provider of publicly available electronic communications services for the supply of such services in accordance with the definition at section 2(1) of the Framework Regulations.

²⁷[BEREC Report](#)

²⁸ BEREC Report, pages 30-31

4 Proposed Measures

4.1 ComReg's Proposed Approach

TRS

- 54 As set out in Section 3, the publically available statistical information suggests that potentially between 100,000 and 120,000 people could benefit from and indeed may require a TRS for equivalent access, however, statistics provided to ComReg by Eircom has indicated that the TRS solution is availed of by a small and decreasing number of users.
- 55 In its submission to ComReg's consultation (13/58) Deaf Hear noted *“that on average less than twenty calls are made via the TRS”* and *“attributes the low numbers to substitutes such as for example mobile phones and smart phones, SMS/texting; the prohibitive cost of buying and maintaining a Minicom phone; the dissatisfaction with the TRS itself in terms of quality and reliability; and most important of all, the failure to adapt the TRS to allow people to access the service with newer technologies”*.
- 56 ComReg has taken the preliminary view that it should mandate TRS measures, in order to ensure equivalence in access and choice for disabled end-users. As mentioned in this and ComReg Decision 04/14, access to a TRS has been highlighted at the Forum as important for those end-users with a hearing or speech related disability in order to attain equality of access and choice.
- 57 Therefore, ComReg is of the preliminary view that all PATS Undertakings should provide access to a TRS service for disabled end-users.

Q. 1 Do you agree that all PATS Undertakings should be required to provide access to a TRS? Please provide detailed reasons and supporting evidence for your view.

Minimum Requirements

- 58 Whilst ComReg is not setting out detailed technical specifications with regard to a TRS, it is proposing a number of principles that the TRS should meet at a minimum.
- 59 The proposed minimum requirements are based on those available for the current TRS and incorporate the additional requirement to ensure access from a range of electronic communications services.

Table 1 TRS Proposed Minimum Requirements

<ol style="list-style-type: none">1. A technology-neutral service to be available for use via Minicom, Fixed-line, mobile, PC, tablet etc;2. Be available for the receipt and translation of voice communications into text and the conveyance of that text to the terminal of end-users of any provider of Publicly Available Telephone Services and vice versa;3. Be available for the receipt and transmission of voice communications in parallel with text communications, allowing both channels to work in tandem to deliver near synchronous voice and text;4. Be available for access by end-users of the service from readily available compatible terminal equipment, including textphones, Braille readers, personal computers, mobile telephones and tablet devices;5. Be available free of charge for access by end-users on a 24 hour, 7 day per week basis;6. Allow communications from and between end-users with other end-users of other approved Relay services;7. Be available to allow end-users, who because of their disabilities need to make calls using a Relay service, to receive incoming calls without the calling party needing to dial a prefix;8. Be available to, and in so far as possible, allow for communications between end-users of the service at speeds equivalent to voice communications;9. Confidentiality of communications between end-users of the service is to be ensured.
--

60 ComReg is of the preliminary view that the TRS that is offered by Undertakings should meet the minimum requirements in Table 1 above.

Q. 2 Do you agree that the TRS should at a minimum meet the requirements as set out above? Please provide details of how the service could be provided, the suggested solutions and costings, which must be substantiated. All details will be considered and incorporated into the final RIA and Decision.

Quality of Service Obligations

- 61 ComReg is aware that the many services provided by Undertakings for end-users are provided to quality standards. In some cases the standards may be set by regulation, or by virtue of a competitive market. The supply of access to TRS by Undertakings would also require quality standards to be measured and monitored.
- 62 ComReg considers, as other NRAs such as OFCOM and PTS have, that the TRS solution should be supplied in accordance with agreed and published Quality of Service Obligations.
- 63 ComReg is of the preliminary view that the TRS offered should be at least in line with the general call answering and abandoned rates available to all customers. In light of this, ComReg expects that the Quality of Service Obligations would be at a minimum as follows:

Quarterly Quality of Service Obligations	Target
Relay Calls answered within 20 seconds	80%
Relay Calls Abandoned Rate	< 5% calls abandoned

Q. 3 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Please provide detailed reasons and supporting evidence for your view

- 64 Additionally, as the purpose of a TRS service is to achieve equivalence in access and choice for disabled end-users, ComReg considers the use of Quality of Service Obligations to ensure the quality of the relay service be delivered on behalf of disabled end-users to be of importance.
- 65 Therefore, ComReg is of the preliminary view that the service which all PATS Undertakings should be required to provide access to should have at least the following Quality of Service Obligations that are particular to TRS:

Quarterly Quality of Service Obligations	TARGET
Service availability per calendar month	99.9%
Call waiting – end-users must be informed (dependant on their method of contact) if they are in a queue	100%

Quarterly Quality of Service Obligations	TARGET
Relay assistance to be monitored for accuracy Quarterly	94% of calls handled correctly
Confidentiality to be observed	100%
Average voice to text translation accuracy	> 98%
Total calls subject to handover ²⁹	<= 2%

Q. 4 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Do you consider additional Quality of Service Obligations are necessary to deliver the service? Please provide detailed reasons and supporting evidence for your view.

TRS Rebate Scheme

66 Currently disabled end-users using TRS may avail of a rebate scheme as the time taken to make a text telephone call is longer than that needed to make an ordinary voice call. In order to ensure equality of payment/cost for deaf text telephone users, Eircom has implemented NAD (National Association of the Deaf) rebate scheme. This provides text telephone users (minicom users) with a rebate of up to 70% on text phone call charges per bill. In 2014, the NAD scheme had 58³⁰ registered customers receiving a maximum of €17.14 per month.

67 ComReg is of the preliminary view that once a TRS is implemented in an environment where undertakings offer multiplatform (Minutes, texts, data etc.) bundles and packages the original basis for the rebate system may no longer be relevant. However, ComReg is of the preliminary view that those currently availing of the NAD scheme offered by Eircom should continue to avail of the rebate scheme, but funded by their own service provider.

Q. 5 Do you agree existing end-users registered with the NAD rebate scheme should continue to avail of that scheme while continuing to use a Minicom device? Please provide detailed reasons and supporting evidence for your view.

²⁹ This refers to the number of calls that maybe subject to a changes of agent due to a shift change etc.

³⁰ ComReg Information Notice Universal Service Obligations - Measures for disabled end-users; Take up and usage statistics. Document No. 15/22

Q. 6 Do you agree that the TRS rebate scheme, that takes into account that the time taken to make a text telephone call is longer than that need to make an ordinary call, will not be appropriate for new TRS users? Please provide detailed reasons and supporting evidence for your view.

4.2 Timing of implementation and review of measures

Introduction

68 The measures being proposed in this consultation may require a technical solution which ComReg is of the preliminary view could be possible and proportionate as based on the solutions which have been considered appropriate in other jurisdictions. However, further to discussions at the Forum and in light of the need for more information regarding the timing issues which may be experienced by Undertakings in rolling-out the TRS, ComReg is minded to use the submissions of the respondents to this consultation to assist in respect of the timing of the implementation of the requirements of Regulation 17 of the Regulations.

69 Decision 09/14 set out obligations under Regulation 7 of the Regulations, whereby Eircom was designated as the USP for the purpose of complying with specific services including TRS as provided for by Regulation 6 of the Regulations effective until 30 June 2015.

ComReg Proposed Approach

70 Having considered developments in other countries, ComReg is of the preliminary view that a lead-in period of 6 months from the date of publication of any decision should provide Undertakings with adequate time for development and implementation of the measures.

Q. 7 Do you have any views with regard to the 6 month timeframe proposed for the development and implementation of the proposed measures? Please provide detailed evidence and reasons to support your view.

71 ComReg is aware that the obligation on Eircom in respect of TRS extends to 30 June 2015 only and as Undertakings will require adequate time to develop and implement the measures, ComReg is of the preliminary view that this obligation on Eircom could be extended pending introduction of any new TRS, following a response to consultation and decision being issued.

Q. 8 Do you agree with ComReg's preliminary view that the obligation on Eircom, as the USP, to continue to provide a TRS should be extended pending introduction by all PATS Undertakings of the proposed TRS, if decided? Please provide detailed evidence and reasons to support your view.

5 Regulatory Impact Assessment ("RIA")

5.1 Role of the RIA

72 A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. The RIA should help identify regulatory options, and should establish whether proposed regulation is likely to have the desired impact. The RIA should also in certain cases suggest whether regulation is or is not appropriate.

73 The RIA is a structured approach to the development of policy, and analyses the impact of regulatory options on different stakeholders. ComReg's approach to RIA is set out in the Guidelines published in August 2007.³¹ In conducting the RIA, ComReg takes account of the RIA Guidelines³² issued by the Department of An Taoiseach in June 2009 and adopted under the Government's *Better Regulation* programme.

74 Section 13(1) of the Communications Regulation Act 2002, as amended, requires ComReg to comply with certain Ministerial Policy Directions. Policy Direction 6 of February 2003 requires that before deciding to impose regulatory obligations on Undertakings ComReg must conduct a RIA in accordance with European and International best practice, and otherwise in accordance with measures that may be adopted under the Government's Better Regulation programme. In conducting the RIA, ComReg also has regard to the fact that regulation by way of issuing decisions, for example imposing obligations or specifying requirements, can be quite different to regulation that arises by the enactment of primary or secondary legislation.

75 In conducting RIA, ComReg takes into account the six principles of Better Regulation. These are:

1. Necessity.
2. Effectiveness.
3. Proportionality.
4. Transparency.

³¹ ComReg Document 07/56 & 07/56a

³² [RIA Guidelines](#) (Department of the Taoiseach – Revised RIA GUIDELINES – How to conduct a Regulatory Impact Analysis – June 2009)

5. Accountability.

6. Consistency.

76 To ensure that a RIA is proportionate and does not become overly burdensome, a common sense approach will be taken towards a RIA. As decisions are likely to vary in terms of their impact, if after initial investigation a decision appears to have relatively low impact, then ComReg would expect to carry out a less exhaustive RIA in respect of those decisions.

77 In determining the impacts of the various regulatory options, current best practice appears to recognise that full cost benefit analysis would only arise where it would be proportionate, or, in exceptional cases, where robust, detailed and independently verifiable data is available. This approach will be adopted when necessary.

78 ComReg is of the preliminary view that the benefits to be achieved by the measures proposed in this consultation document outweigh any potential costs and, as such, considers that the measures proposed are proportionate and justified given the need to ensure that disabled end-users can enjoy access and choice equivalent to that of the majority of end-users. Throughout this consultation document, ComReg has set out the reasons why it considers that there is a need for the measures proposed.

79 ComReg is not at this stage providing a definitive view on the costs involved in complying with the proposed measures in relation to TRS, rather, ComReg solicits views from Undertakings in respect of any costs associated with implementation of measures outlined. Should respondents to this consultation have comments in respect of associated costs, they should be substantiated, with sufficient evidence.

5.2 Preliminary assessment of the regulatory approach

80 An approach for NRAs to ensure equivalence in access and choice for disabled end-users was published by BEREC. ComReg has decided to adopt as a template BEREC's proposed approach³³ in its implementation of Regulation 17 of the Regulations. The steps taken by ComReg in this regard are set out in Annex 3 of this consultation document.

³³ [BEREC Report](#), pages 68-73

- 81 ComReg has taken the preliminary view that it should mandate measures to be complied with by Undertakings in order to ensure equivalence in access and choice for disabled end-users pursuant to Regulation 17 of the Regulations which provide a statutory basis for specifying requirements to be complied with by Undertakings. Regulation 31 of the Regulations provides for civil enforcement in circumstances where an Undertaking fails to comply with an obligation, term or condition, requirement, specification or direction under the Regulations. ComReg has also had regard to sections 10 and 12 of the Communications Regulation Act, 2002 and Regulation 16 of the Framework Regulations.
- 82 ComReg regards this implementation approach as an appropriate means of achieving the aims of Regulation 17 of the Regulations.

5.3 Policy Issue and Objectives

- 83 Although advances in technology in recent years, such as the increased availability of broadband and mobile data services, email and SMS messaging, have improved disabled end-users' ability to communicate, the ability to use these services and to make and receive telephone calls remains important.
- 84 ComReg considers it essential that disabled end-users do not face any barriers when accessing electronic communications services. The barriers that disabled end-users face and the importance of access to telephone services are recognised in the USD³⁴.
- 85 ComReg's objective is to ensure that equivalence in access to electronic communications services and choice of Undertakings and services is attained for disabled end-users.
- 86 Under the Regulations, the USP is obliged to offer certain services to disabled end-users. However pursuant to Regulation 17 of the Regulations, all Undertakings may be required to comply with specific requirements in order to ensure that disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

³⁴ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC)

- 87 ComReg must first establish whether or not there is equivalence and secondly identify any factors that need to be addressed. In its Report, BEREC proposed *“that “equivalent” in this context means that equivalent access to and choice of electronic communications services should be achieved for end-users with disabilities, albeit that this might be achieved in different ways for end-users with disabilities in comparison with other end-users”*.³⁵
- 88 The measures proposed in this consultation for ensuring equivalence in access and choice, have been discussed with the Forum to ensure that they are required, robust and have a high likelihood of achieving the goals required.
- 89 ComReg is of the preliminary view that the benefits to be achieved by the measures proposed in this consultation document outweigh any potential costs and as such, considers that the measures proposed are proportionate and justified given the need to ensure that disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

5.4 Identify the regulatory options

90 ComReg is of the initial view that there are two options:

- **Option 1:** Status quo remains; The current TRS system remains an obligation of the USP, with the service remaining available to fixed line end-users only.
- **Option 2:** ComReg requires all PATS Undertakings to provide access to an improved and extended TRS. The provision of the service to at least the stated minimum requirements would increase its usefulness to potential end-users. As ComReg’s recent Quarterly Key Data Report³⁶ notes, the number of fixed line subscribers is decreasing (-0.2%) while the number of mobile subscribers is increasing (+0.3%). This would ensure that a greater number of end-users who could potentially access a TRS.

5.5 Determine Impacts on Stakeholders and Competition

91 In order to determine the impact of each option, the impact is assessed below with respect to stakeholders and competition.

³⁵ BEREC Report, pages 30-31

³⁶ ComReg Irish Communications Data Report (14/134) Data as of Q3 2014, 11 December 2014
http://www.comreg.ie/_fileupload/publications/ComReg14134.pdf

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	Impact on Disabled end-users	Impact on Industry	Impact on Competition
Option 1	Some disabled end-users continue to use TRS.	Some Undertakings other than Eircom may provide access to a TRS voluntarily, however Undertakings that do not already provide this equivalence of service are unlikely to in the future unless mandated.	There is a relatively low net cost of providing the current service.
	Disabled end-users may continue to experience difficulties in conducting their day to day activities via the current TRS and most users are excluded.	The USP continues to provide access to TRS.	
	Many disabled end-users do not use TRS due to quality and reliability issues. In many cases disabled end-users are reliant on others to communicate with third parties on their behalf.	No additional costs incurred by the USP for the continued provision of the service.	
	Exclusion for disabled end-users due to the inability to access the TRS.		
Option 2	Equivalent experience for disabled end-users when making contact with third parties/services via telecommunications networks.	As the service will be available from all PATS Undertakings disabled subscribers, this may provide an opportunity for Undertakings to provide an enhanced service to disabled end-users.	All PATS Undertakings have the same obligations in respect of disabled end-users ensuring that there is no negative impact on competition.
	Increased confidence in using the TRS system due to minimum requirements and quality of the service.	Additional costs and modification to provide the TRS system. Costs incurred may be higher for Undertakings who currently do not offer the service than for those who currently offer it.	Disabled end-users will now have choice between Undertakings.

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	Impact on Disabled end-users	Impact on Industry	Impact on Competition
		ComReg is aware of costs models in other jurisdictions. It is also aware that BT in the UK has already developed an application to assist with the access aspects. However, as no solution has been put forward by industry in Ireland this cost estimation has not been finalised yet.	
	Disabled end-users are may be less dependent on others to communicate with third parties (depending on the solutions adopted)	Training and monitoring of service provision levels should not require any substantial additional costs to what is currently required.	
	Broadening the access to TRS would increase its usefulness and attractiveness to potential end-users.	Due to the potential extended customer base, demand for services in the area of communications could potentially increase.	
	Issues regarding access for disabled end-users due to the limiting of the TRS rebate may be mitigated by the availability of suitable total communications packages from Undertakings.		
	More disabled end-users may now use TRS leading to increased social inclusion for these end-users.		

5.6 Assess Impacts and Choose the best option

- 92 ComReg is of the view that keeping the status quo (Option 1) will not achieve the objective of equivalence for disabled end-users.
- 93 The majority of the 100-120k consumers who could benefit from access to TRS are not able to do so, due to the lack of access, reliability and quality of the service.
- 94 By implementing Option 2, disabled end-users would have a greater degree of access and choice and may be less dependent on third parties for everyday communications.
- 95 The impact on the costs to industry of implementing option 2 will vary depending on whether the Undertaking currently provides TRS or not. It will also vary depending on any required amendments to the systems of those providing TRS and the availability of existing technological solutions. However ComReg, is of the view that these measures are unlikely to result in a disproportionate cost burden and for the reasons set out above, the benefits to disabled consumers are likely to be significant. In contrast, if the obligation is not amended no such benefits would follow.
- 96 ComReg is of the preliminary view that the benefits to be achieved by introducing Option 2 would outweigh any potential costs, and believes that this option is proportionate and justified and ensures disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

Q. 9 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and are invited to offer their views on other factors (including details of any proposed solutions, the costs of implementing a TRS that meets minimum requirements) that ComReg should consider in completing its RIA. All submissions in respect of proposals and costs must be substantiated.

6 Submitting Comments

97 The consultation period will run from 5 March 2015 to 9 April 2015 during which ComReg welcomes written comments on any of the issues raised in this paper.

98 All comments are welcome; however, it would make the task of analysing responses easier if comments were referenced to the relevant question numbers from this document.

99 Having analysed and considered the comments received, ComReg will review the proposed approaches. The consultation process will culminate with the publication of a response to consultation paper containing measures in relation to Text Relay Services to ensure equivalence in access and choice for disabled end-users.

100 In order to promote further openness and transparency, ComReg will publish all respondents' submissions to this consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information.³⁷ We would request that electronic submissions be submitted in an unprotected format so that they can be appended into the ComReg submissions document for publishing electronically.

101 ComReg appreciates that many of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful.

102 As it is ComReg's policy to make all responses available on its web-site and for inspection generally, respondents to consultations are requested to clearly identify confidential material and place confidential material in a separate annex to their response.

103 Such material will be subject to the provisions of ComReg's guidelines on the treatment of confidential information.³⁸

³⁷ ComReg 05/24

³⁸ ComReg 05/24

Annex: 1 Legal Basis

European Communities (Electronic Communications Network and Services)(Universal Service and Users' Rights) Regulations 2011, (“the Regulations”)³⁹

A 1.1 The Universal Service Directive (“USD”) as amended⁴⁰ was transposed into national law by the Regulations on 1 July 2011. Specifically, Article 23a of the USD as amended, which provides for ensuring equivalence in access and choice for disabled end-users, was transposed into national law by Regulation 17 of the Regulations.

A 1.2 Recital 12 of the amending USD⁴¹ states that “*equivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To that end, access should be functionally equivalent such that disabled end-users benefit from the same usability of services as other end-users, but by different means*”.

A 1.3 The legal basis is set out in the Regulations. Provisions of particular relevance are set out below.

Mechanism to specify requirements to be complied with by Undertakings

A 1.4 ComReg will specify requirements to be complied with by Undertakings using the following statutory basis:

A 1.5 The issuing of a Decision to Undertakings under Regulation 17 of the Regulations, by virtue of a Decision to impose obligations post consultation. It should be noted that Regulation 31 of the Regulations provides for civil enforcement.

Regulation 17 of the Regulations provides:

17.(1) The Regulator may, where appropriate, specify requirements to be complied with by undertakings providing publicly available electronic communications services in order to ensure that disabled end-users-

- (a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users, and*

³⁹ SI No 337 of 2011

⁴⁰ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009

⁴¹ Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009

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(b) *benefit from the choice of undertakings and services available to the majority of end-users.*

(2) *The Regulator shall encourage the availability of terminal equipment offering the necessary services and functions in order to be able to adopt and implement specific arrangements for the requirements of disabled end-users.*

Section 10 of the Communications Regulation Act, 2002 sets out the functions of ComReg.

Section 12 of the Communications Regulation Act, 2002 outlines the objectives of ComReg, including as follows:

12.(1) The objectives of the Commission in exercising its functions shall be as follows—

(a) in relation to the provision of electronic communications networks, electronic communications services and associated facilities—

(i) to promote competition,

(ii) to contribute to the development of the internal market, and

(iii) to promote the interests of users within the Community,

[...]

12.(2) In relation to the objectives referred to in subsection (1)(a), the Commission shall take all reasonable measures which are aimed at achieving those objectives, including—

(a) in so far as the promotion of competition is concerned—

(i) ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality,

[...]

ComReg is also mindful of section 12(3) of the Communications Regulation Act, 2002 which provides:

12.(3) In carrying out its functions, the Commission shall seek to ensure that measures taken by it are proportionate having regard to the objectives set out in this section.

A 1.6 Regulation 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011⁴² provides further objectives for ComReg that, amongst other objectives, requires ComReg, in so far as the promotion of competition is concerned, to ensure that elderly users and users with special social needs derive maximum benefit in terms of choice, price and quality. Insofar as promotion of the interests of users within the European Union is concerned, ComReg is required to address the needs of specific social groups, in particular, elderly users and users with special social needs, and to promote the ability of end-users to access and distribute information or use applications and services of their choice.

In relation to enforcement, Regulation 31 of the Regulations provides as follows:

“Enforcement — compliance with obligations

31. (1) The Regulator shall monitor compliance with these Regulations, other than Regulation 18(3) and (5).

(2) Where the Regulator finds that an undertaking has not complied with an obligation, term or condition, requirement, specification or direction under these Regulations, the Regulator shall notify the Undertaking of those findings and give the Undertaking an opportunity to state its views or, if the non-compliance can be remedied, to remedy the non-compliance within a reasonable time limit as specified by the Regulator.

(3) The Regulator may publish, in such manner as it thinks fit, any notification given by it under this Regulation subject to the protection of the confidentiality of any information which the Regulator considers confidential.

(4) The Regulator may amend or revoke any notification under this Regulation.

(5) Where, at the end of the period specified by the Regulator under paragraph (2), the Regulator is of the opinion that the Undertaking concerned has not complied with an obligation, term or condition, requirement, specification or direction, the Regulator may, whether or not the non-compliance is continuing, subject to paragraph (10), apply to the High Court for such order as the Regulator considers appropriate including—

(a) a declaration of non-compliance,

⁴² SI No 333 of 2011

(b) an order directing compliance with the obligation, term or condition, requirement, specification or direction,

(c) an order directing the remedy of any non-compliance with the obligation, term or condition, requirement, specification or direction, or

(d) an order as provided for in paragraph (9).

(6) The High Court may, on the hearing of the application referred to in paragraph (5), make such order as it thinks fit which may include—

(a) a declaration of non-compliance,

(b) an order directing compliance with the obligation, term or condition, requirement, specification or direction,

(c) an order directing the remedy of any non-compliance with the obligation, term or condition, requirement, specification or direction, or

(d) an order as provided for in paragraph (9),

or refuse the application.

...(9)(a) An application for an order under paragraph (5) may be for, or include an application for, an order to pay to the Regulator such amount, by way of financial penalty, which may include penalties having effect for periods of non-compliance with the obligation, term or condition, requirement, specification or direction, as the Regulator may propose as appropriate in the light of the non-compliance or any continuing non-compliance. Such an application for an order in respect of a financial penalty for a period of non-compliance may be made even if there since has been compliance with the obligation, term or condition, requirement, specification or direction.

A 1.7 Regulation 6 of the Regulations obliges ComReg to impose obligations on designated Undertakings⁴³ for disabled end-users as follows:

6.(1) (a) Unless requirements have been specified under Regulations 14 to 25 which achieve the equivalent effect, the Regulator shall, with the consent of the Minister, specify obligations applicable to designated undertakings for the purpose of ensuring that disabled end-users can enjoy access to and affordability of the services identified in Regulations 3(2) and 4, equivalent to the level enjoyed by other end-users.

⁴³ A designated undertaking is an undertaking who has been designated as a Universal Service Provider in accordance with Regulation 7 of the Regulations.

[...]

6.(2) The Regulator may specify terms and conditions to be complied with by designated undertakings for the purpose of ensuring that disabled end-users can take advantage of the choice of Undertakings and service providers available to the majority of end-users.

[...]

A 1.8 In accordance with Regulation 7 of the Regulations, Eircom Ltd. (“Eircom”) is designated as the Universal Service Provider (“USP”) until 30 June 2015⁴⁴ for the purpose of complying with the specific obligations for disabled end-users as provided for by Regulation 6 of the Regulations.

A 1.9 Prior to the introduction of Regulation 17 of the Regulations in 2011, protections for disabled end-users were largely confined to requirements established by the Universal Service Obligations. As such, the Regulations now provide the opportunity for all Undertakings providing publicly available electronic communications services, including PATS providers, to ensure equivalence in access and choice for disabled end-users in their provision of electronic communications services.

A 1.10 ComReg is of the preliminary view that the measures proposed in this consultation document should be binding upon every Undertaking excluding the designated USP only in so far as any obligation or aspect of same is currently imposed on the designated USP in accordance with the Universal Service designation⁴⁵.

Universal Service Requirements

A 1.11 Current USO obligations in relation to text relay services are set out in Decision D09/14⁴⁶, which applies from 7th July 2014 until 30 June 2015. In accordance with Regulation 7 of the Regulations, Eircom is designated as the USP for the purpose of complying with the following obligations, and as provided for by Regulation 6 of the Regulations, the USP shall therefore provide the following specific services:

For users that are hearing and/or speech impaired

⁴⁴ ComReg 12/71

⁴⁵ ComReg 12/71

⁴⁶ Contained in ComReg document 14/70 “Universal Service Obligation – Measures for Disabled End-Users – Response to Consultation and Decision”.

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A TRS providing facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any operator, and vice versa.

A rebate scheme whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured.

Annex: 2 ComReg Disability Forum

A 2.1 The Forum was established in 2006 to further ComReg's statutory objectives to promote competition and to promote the interests of users.

A 2.2 The Communications Regulation Act, 2002 envisages that ComReg takes specific measures in relation to those objectives including the following measures:

- Ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality
- Promoting the provision of clear information
- Addressing the needs of specific social groups, in particular disabled users

A 2.3 The Forum comprises of members representing the Disability sector in Ireland and Electronic Communications Service providers. The goal of the Forum is to ensure that organisations represented at the Disability Stakeholders Group (DSG) are also represented at the Forum. To that end, ComReg requested nominations from the Chairperson of the DSG to attend the Forum. Organisations currently nominated by the DSG and representing the Disability sector at the Forum include:-

- The National Disability Authority
- People with Disabilities in Ireland
- The Disability Federation of Ireland
- The Not for Profit Business Association
- The Irish Mental Health Coalition
- The Federation of Voluntary Bodies

A 2.4 Undertakings represented at the Forum include:-

- Fixed Market: Eircom Limited, UPC Communications Ireland Limited and Vodafone Ireland Limited.
- Mobile Market: Vodafone Ireland Limited, Three Ireland (Hutchison) Limited, Three Ireland Services (Hutchison) Limited and Meteor Mobile Communications Limited.

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A 2.5 Functions of the Forum include the following:

- The identification of services provided by providers that are relevant to the needs of users with disabilities
- The identification of accessibility issues for people with disabilities in relation to electronic communications services
- The promotion of good practice by providers in relation to the accessibility of customer service
- The promotion of accessible information provision by providers to users with disabilities so that such users can exercise choice in respect of services and service provider
- The promotion of the needs of users with disabilities through a review of the effectiveness of existing services in meeting the electronic communications needs of users with disabilities and recommending improvements and/or new services

A 2.6 Key initiatives developed and implemented to date include:

- Survey of the electronic communications needs of consumers with disabilities - March 2007 & April/May 2010
- Publication of the Phone and Broadband Guide for People with Disabilities and Older People – October 2007
- Hosting of the CEO'S Breakfast Briefing and Workshop for electronic communications companies to raise awareness at industry-level of the benefits of universal design and its benefits for all aspects of business (product design, marketing and customer services) - October 2008
- Introduction of a Quality Standard for Bill Presentation, with a specific section relating to Accessibility - November 2008
- Development of the "One Click Initiative" to improve accessibility of providers websites and services - September 2009
- Directory Enquiry Services – Eircom, as USP, provides registered customers with free access to directory enquiry services. The Forum has successfully facilitated the extension of this service to other fixed-line and mobile providers, thus providing greater choice of provider for customers with disabilities - November 2009
- Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users – this decision places obligations on all electronic communications service providers – May 2014

Annex: 3 BEREC

BEREC Report – Electronic communications services: Ensuring equivalence in access and choice for disabled end-users

A 3.1 The BEREC Report referenced the EC communication on e-Accessibility 2005 COM (2005)425 which states that -

‘the Commission has the ambitious objective of achieving an “Information Society for All”, promoting an inclusive digital society that provides opportunities for all and minimises the risk of social exclusion.’

[...]

‘Additionally, within that communication, the EC highlighted the need for improving access to Information and Communication Technologies (ICTs) for people with disabilities and reserved the option to consider additional measures including new legislation if deemed necessary.’

A 3.2 The BEREC Report further states that -

‘According to the EC communication regarding e-Accessibility COM (2005)425, published in 2005, people with disabilities represented 15% of the European population. Additionally, the European Disability Federation (EDF) states that “disabled people suffer from isolation compared to non-disabled people”. Therefore, BEREC considers that the provision of access to and choice of electronic communication services for consumers with disabilities is becoming increasingly important to ensure that all consumers can benefit from new communications services and fully participate in the Information Society.’

A 3.3 Article 23a of the USD as transposed into Irish law by Regulation 17 of the Regulations provides that ComReg may, where appropriate, specify requirements to be complied with by Undertakings in order to ensure equivalence in access and choice for disabled end-users and that ComReg shall encourage the availability of terminal equipment offering the necessary services and functions for disabled end-users.

BEREC Approach

A 3.4 BEREC published a report in February 2011 “*Electronic communications services: Ensuring equivalence in access and choice for disabled end-users*” that proposes a stepped, systematic approach in considering what measures, if any should be implemented in respect of Article 23a of the Universal Services Directive (USD)⁴⁷. In its consideration of appropriate and necessary measures, ComReg has endeavoured to adopt as a template the BEREC approach as follows:

Step 1 - Determination of factors to assess equivalent access and choice

A 3.5 The following factors, proposed by the BEREC report, are examined when assessing equivalent access for end-users with disabilities:

- availability of accessible terminal equipment
- price
- number of additional suppliers and additional setup
- accessible complaint handling and support and maintenance processes
- accessible billing
- accessible directory services

A 3.6 The following factors, proposed by the BEREC report, are examined when assessing equivalent choice for end-users with disabilities:

- range of services and Providers with accessible services
- choice of packages with accessible handsets
- accessible information regarding the services provided
- accessible information about prices
- accessible contract terms
- accessible switching procedure

⁴⁷ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC)

Step 2 – Assess each factor for end-users with disabilities in relation to other end-users

A 3.7 Assessment of each factor for end-users with disabilities in relation to other end-users is required in order to determine detriment, if any, for disabled end-users when compared with other end-users. Detriment is established by a lack of functional equivalence.

Step 3 – Identify proportionate measures to address issues with respect to equivalence

A 3.8 Where detriment is established, measures are identified, in consultation with the Forum, that are appropriate and necessary to ensure equivalence in access and choice for disabled end-users. Section 4 of this consultation document provides further details about proposed measures in this regard.

Step 4 – Consult with interested parties regarding proposed measures and obligations on Undertakings

A 3.9 ComReg to consult with interested parties regarding the proposed measures to ensure that inputs from all stakeholders, including disabled end-users, can be obtained. In that regard, the consultation document and consultation process should be fully accessible.

ComReg implementation of Steps 1 – 4 above

A 3.10 As part of a preliminary assessment process on this issue, ComReg facilitated three meetings of the Forum from June to September 2011. At the initial meeting the approach proposed by the BEREC report was presented.

A 3.11 At the two subsequent meetings of the Forum, steps 1-3 above were completed by:

- assessing the current legal framework and associated measures currently in place;
- establishing where detriment occurs;
- determining what could be done to limit detriment for disabled end-users when compared with the majority of end-users in accessing services and availing of a choice of Undertakings;
- assessing whether equivalence can be achieved by the introduction of new measures or by adapting current services;
- proposing measures for implementation;
- proposing a timeframe for implementation of measures; and

Step 4 - will be completed by consulting with interested stakeholders (including accessible consultation documents and processes).

Step 5 – Forum meetings – monitoring implementation and review of measures mandated by ComReg

A 3.12 Draft measures for ensuring equivalence in access and choice, set out in section 4 of this consultation document, were discussed at the Forum meetings to ensure that measures proposed are robust and have a high likelihood of achieving the goals required by Regulation 17 of the Regulations.

A 3.13 However, a further step was introduced and discussed at the Forum meetings to cover the following issues:

- proposing mechanisms for review of measures implemented; and
- providing for mechanisms to review in light of changing circumstances, for example, unexpected and escalated developments in technology.

Annex: 4 Draft Decision Instrument

1. STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

This Direction and Decision Instrument (“Decision Instrument”), made by ComReg, relates to ensuring equivalence in access and choice for disabled end-users in the Irish electronic communications market and is made:

- i. Having regard to ComReg’s functions and objectives set out in sections 10 and 12 of the Communications Regulations Acts 2002 to 2011 and ComReg’s further objectives set out in Regulation 16 of the Framework Regulations;
- ii. Having regard to the functions and powers conferred upon ComReg under and by virtue of Regulations 6, 7 and 17 of the Universal Service Regulations;
- iii. Having, where appropriate, pursuant to section 13 of the Communications Regulation Acts 2002 to 2011 complied with the policy directions made by the Minister for Communications, Marine and Natural Resources;
- iv. Having regard to the analysis and reasoning set out in ComReg Decision document No. [-];
- v. Having taken account of the representations of interested parties submitted in response to ComReg Document No. 15/21;
- vi. Having regard to the analysis and reasoning set out in ComReg Document No [-]

The provisions of the response to consultation and final decision document entitled [ComReg Document No. [-]] shall, where appropriate, be construed together with this Decision Instrument.

2. DEFINITIONS

In this Decision Instrument, unless the context otherwise suggests:

“**ComReg**” means the Commission for Communications Regulation, established under section 6 of the Communications Regulation Act, 2002 (as amended).

“Disabled” means having a “disability”, which in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment in accordance with the definition at section 2(1) of the Disability Act 2005.

“End-User” means a user not providing public communications networks or publicly available electronic communications services in accordance with the definition at section 2(1) of the Framework Regulations.

“Equivalence” means functional equivalence, in accordance with recital 12 of Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 which provides that “equivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent, such that disabled end-users benefit from the same usability of services as other end-users, but by different means”.

“Publicly Available Telephone Service means a service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan”.

“Undertaking” means a person engaged in the provision of publicly available electronic communications services.

“Universal Service Obligation Decision” means ComReg Decision No. D09/14, ComReg 14/70, “Universal Service Obligation – Measures for Disabled End-Users”, dated 7 July 2014.

Universal Service Regulations” means the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 as may be amended from time to time.

Other terms used in this Decision Instrument shall have the same meaning as when they are used in the Universal Service Regulations, unless the context otherwise admits or requires.

3. SCOPE AND APPLICATION

- i. This Decision Instrument applies to Undertakings that provide a Publicly Available Telephone Service.
- ii. This Decision Instrument is binding upon every Undertaking, in accordance with section 3(i).

- iii. This Decision Instrument specifies requirements to be complied with by Undertakings in order to ensure equivalence in access and choice for disabled end-users.

4. MEASURES TO ENSURE EQUIVALENCE IN ACCESS AND CHOICE FOR DISABLED END-USERS

Text Relay Service

4.1 Undertakings to which this Decision Instrument applies must provide, for users who are hearing and/or speech impaired:

- i. A text relay service providing facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any operator, and vice versa; and
- ii. A rebate scheme for users who at the effective date of this Decision Instrument are using the National Association for the Deaf Programme provided by Eircom, whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured, and the current rebate of up to 70% on text telephone call charges per telephone bill, to a maximum €17.14 per month, is maintained, subject to agreed periodic review and change where agreed.

Undertakings to which this Decision Instrument applies must ensure that the quality of service of the Text Relay Service provided for disabled end-users is of an equivalent quality of service of any equivalent service provided for all end-users.

4.2 The text relay service required under section 4.1 of this Decision Instrument must fulfil the following minimum requirements:

1. The text relay service must be a technology-neutral service to be available for use via Minicom, fixed-line, mobile, personal computer, tablet, or other equivalent electronic device;
2. The text relay service must be available for the receipt and translation of voice communications into text and the conveyance of that text to the terminal of end-users of any provider of Publicly Available Telephone Services and vice versa;
3. The text relay service must be available for the receipt and transmission of voice communications in parallel with text communications, allowing both channels to work in tandem to deliver near synchronous voice and text;

4. The text relay service must be available for access by end-users of the service from readily available compatible terminal equipment, including textphones, Braille readers, personal computers, mobile telephones and tablet devices;
5. The text relay service must be available free of charge for access by end-users on a 24 hour, 7 day per week basis;
6. The text relay service must allow communications from and between end-users with other end-users of other approved Relay services;
7. The text relay service must be available to allow end-users, who because of their disabilities need to make calls using a Relay service, to receive incoming calls without out the calling party needing to dial a prefix;
8. The text relay service must be available to, and in so far as possible, allow for communications between end-users of the service at speeds equivalent to voice communications;
9. The text relay service must ensure the confidentiality of communications between end-users of the service

4.3 The text relay service required under section 4.1 of this Decision Instrument must fulfil, as a minimum, Quality of Service Obligations to ensure equivalence set out below:

Quality of Service to ensure equivalence

Quarterly Quality of Service Obligations	Target
Relay Calls answered within 20 seconds	80%
Relay Calls Abandoned Rate	< 5% calls abandoned

Quarterly Quality of Service Obligations	TARGET
Service availability per calendar month	99.9%
Call waiting – end-users must be informed(dependant on their method of contact) if they are in a queue	100%
Relay assistance to be monitored for accuracy Quarterly	94% of calls handled correctly
Confidentiality to be observed	100%
Average voice to text translation accuracy	> 98%

Quarterly Quality of Service Obligations	TARGET
Total calls subject to handover ⁴⁸	<= 2%

5. STATUTORY POWERS NOT AFFECTED

Nothing in this Decision Instrument shall operate to limit ComReg in the exercise and performance of its statutory powers or duties conferred on it under any primary or secondary legislation (in force prior to or after the Effective Date of this Decision Instrument) from time to time.

6. MAINTENANCE OF OBLIGATIONS

If any Section, clause or provision or portion thereof contained in this Decision Instrument is found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, that Section, clause or provision or portion thereof shall, to the extent required, be severed from this Decision Instrument and rendered ineffective as far as possible without modifying the remaining Section(s), clause(s) or provision(s) or portion thereof of this Decision Instrument, and shall not in any way affect the validity or enforcement of this Decision Instrument or other Decision Instruments.

7. EFFECTIVE DATE AND DURATION

7.1 This Decision and Decision Instrument is effective from the date of publication, and shall remain in full force unless otherwise amended by ComReg.

7.2 Undertakings to which this Decision Instrument applies must comply with these measures by six months from the date of publication of this Decision. Undertakings must confirm that they are in compliance with these measures, no later than six months from the effective date.

7.3 Section 2.2(d) of the Universal Service Obligation Decision shall continue to have full force and effect until this Decision Instrument comes into effect in accordance with section 7.1.

Q. 10 Do you have any comments on the substance or the drafting of the draft Decision Instrument? If necessary, please provide a marked up version of the draft Decision Instrument, indicating what changes you believe are appropriate and why.

⁴⁸ This refers to the number of calls that maybe subject to a changes of agent due to a shift change etc.

Annex: 5 Questions

Question	Page
Q. 1 Do you agree that all PATS Undertakings should be required to provide access to a TRS? Please provide detailed reasons and supporting evidence for your view.	18
Q. 2 Do you agree that the TRS should at a minimum meet the requirements as set out above? Please provide details of how the service could be provided, the suggested solutions and costings, which must be substantiated. All details will be considered and incorporated into the final RIA and Decision.	19
Q. 3 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Please provide detailed reasons and supporting evidence for your view.....	20
Q. 4 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Do you consider additional Quality of Service Obligations are necessary to deliver the service? Please provide detailed reasons and supporting evidence for your view.	21
Q. 5 Do you agree existing end-users registered with the NAD rebate scheme should continue to avail of that scheme while continuing to use a Minicom device? Please provide detailed reasons and supporting evidence for your view.	21
Q. 6 Do you agree that the TRS rebate scheme, that takes into account that the time taken to make a text telephone call is longer than that need to make an ordinary call, will not be appropriate for new TRS users? Please provide detailed reasons and supporting evidence for your view.	22
Q. 7 Do you have any views with regard to the 6 month timeframe proposed for the development and implementation of the proposed measures? Please provide detailed evidence and reasons to support your view.	22
Q. 8 Do you agree with ComReg's preliminary view that the obligation on Eircom, as the USP, to continue to provide a TRS should be extended pending introduction by all PATS Undertakings of the proposed TRS, if decided? Please provide detailed evidence and reasons to support your view.	22
Q. 9 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and are invited to offer their views on other factors (including details of any proposed solutions, the costs of implementing a TRS that meets minimum requirements) that ComReg should consider in completing its RIA. All submissions in respect of proposals and costs must be substantiated.....	29

- Q. 10 Do you have any comments on the substance or the drafting of the draft Decision Instrument? If necessary, please provide a marked up version of the draft Decision Instrument, indicating what changes you believe are appropriate and why. 47